

Hydro Power License Stakeholder Advisory Group – Meeting Notes

Date: October 23, 2015

Place: Dept. of Ecology HQ, Lacey, Washington

Summary of actions

Item	Action
Cost Reimbursement	Discussion
Direct/Indirect Costs	Discussion
Legislative Strategy	Discussion
Next Draft of Report	Agencies presented timeframe for producing next iteration, commenting on that

Welcome/Introductions/Agenda Review

The meeting was called to order at 10:00 a.m. by facilitator Neil Aaland. Introductions were made around the room. Neil reviewed the agenda.

Cost Reimbursement (CR) Overview

Don Seeberger opened this topic. At the last meeting, there were a number of questions about cost reimbursement. We are trying to answer those questions today. He and Justin handed out the sections of the RCW that provide the authority for each agency has to use CR. Ecology's attorney thinks this only provides authority for the permitting/ Certification component, not for implementation. Justin believes the same is true for the WDFW authority. Don said this allows Ecology to hire consultants/temporary staff to support the additional work. The Water Resources Program as an example keeps a list of approved consultants that may be used for CR work.

Don introduced Loree' Randall with the Shorelands and Environmental Assistance (SEA) Program. There has been a statutory change to allow bigger projects to use CR. Her unit works on 401 Certifications that are not hydropower related. She noted that a 401 is for an entire project, not just the piece that triggers the 401 Cert. In response to a question, she said the scope of a CR agreement can be negotiated, but not administrative details such as staff salaries, benefits or overhead.

Lisa noted the fee they pay now is to ensure staff is there. Don said that hydro is a fee based program that supports permanent staff. If they went to CR what goes away is dedicated staff. Christine noted that at the last meeting quite a few stakeholders supported the current structure. She wonders if Don had heard anything more from OFM. Don indicated he had the conversation and OFM is not trying to direct the group. But they've asked questions about whether there are other avenues to fully fund.

Additional questions and comments included:

- Lisa does not see how this could work for lower level work, or implementation
- Justin noted WDFW is concerned about negotiating agreements under CR
- Dawn noted that they've used CR for water rights and had good experience with it; she could see it working for hydro projects, if needed
- Loree' said Ecology issues 401 Certifications as administrative orders under the state administrative procedures act to retain authority over conditions
- Micah noted if a small city does CR it's a bigger deal, his costs would go up
- Jerry asked if this would just apply to the re-licensing phase [Yes]
- Justin said a question asked last time was how work would be prioritized. He looked at WDFW resource issues to see how they do that. He handed out a list of issues they would use to make the decision

- Shaun asked what agencies would do about the implementation phase [Don would want to look at all of the authorizations; they would likely want to run a bill if they went down this path]

Neil asked the group if CR is something the group would like the agencies to pursue. John, Micah, and Kim all indicated they would not be interested. Nobody else spoke up to disagree.

Don noted Kim's point that we should focus on what we have agreement on. He said we needed today's discussion to clear this up; he understands that the group does not support a CR approach.

Ross said from Grant's perspective, he wanted to hear more about CR. Fees need to reflect actual need. He knows Grant is in the minority. He would support amending the CR statute to address the concerns.

Dave said Chelan is not interested in expanding the fee structure beyond the 50% level. It seems like with CR it would go beyond 50%. He would need more information to consider that. Rose said she is assuming that CR would be to cover everything. Lisa agreed with Dave's point.

Christine asked if Ecology submitted a decision package for the difference; Don said they have a placeholder at OFM for the bill from last year. He said he would share these perspectives from today's meeting with OFM.

Direct/Indirect Costs

Don introduced Garrett Ward, Ecology, to discuss direct and indirect costs. He referred to a PowerPoint presentation (see the Ecology website to view the details of this presentation -

<http://www.ecy.wa.gov/programs/wq/ferc/workgroup.html>). His presentation was aimed at providing information on how the agency determines its direct and indirect costs. He focused on the 2013-2015 biennium, looking at the Water Quality and Water Resources Programs. A summary of some of the points:

- A portion of indirect is 'cost allocation', which is a percentage used to cover agency administrative costs including the building, copy machines, IT support, other infrastructure
- An agency administrative portion is also assigned to cover costs of executive management, central IT support, communications, and other
- Shaun expressed concern about how ECY allocated capital expenses in one year as part of the overhead when the cost should be spread out over time. Garrett acknowledged this was a fair concern
- Justin noted that sometimes agency executive management spends a lot of time on a given issue or project
- The presentation included only the FTE allocation that is funded by the current fees and does not include other FTE program costs funded from other sources. The biennial report for 2013-2015 will include full program costs.
- Ross noted if fees go away, Chad won't go away – he would be re-allocated to other work.

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How this effort relates to the Report to the Legislature that must be submitted by December 31st (Chad Brown, Ecology)

Chad explained there are two reports. The first is a regular biennial report that talks about the fee program in general. The report being produced for this stakeholder effort will be stand-alone, but included as an appendix to the larger report. The larger report will be produced in draft form in several weeks. The schedule for producing another draft of this report and soliciting comments:

October 30: Comments due on current version

November 6: A final draft will be sent out

November 13: Comments will be due back on that draft. After that, the agencies will produce a version that will be used to brief legislators during legislative assembly days.

The agencies received two types of comment letters on the current version. One type supported the current approach, the other did not. Don summarized the three perspectives that exist:

1. Support the current structure;
2. Let the fee sunset and come to an end (Douglas PUD); and
3. Interested in fee for service (Grant/Chelan).

Michael Garrity noted that, in the context of sunset or no sunset on the fee, his groups preferred and no sunset on the fee. If the choice is between fee with sunset or no fee (or pay for service), they prefer the fee with sunset approach.

Legislative Strategy

Don is interested in talking about a strategy for the upcoming legislative session. Last session, Ecology wanted to extend the sunset for 10 years so the current fees could continue. Lisa said we've all learned from this discussion; they came into this thinking a scaled approach is good but now thinks we should just keep it simple. Jory Oppenheimer said PSE positions is the same, support extending the sunset. John Rothlin said Avista agrees and supports the bill. Dave said last year they supported the bill; now taking a step back. Rose noted that SCL supports the bill. Christine noted that support needs to come from utilities, not just the agencies. Justin noted that the transparency and accountability piece is new, and there was a lot of consensus around that.

Review Draft Report

Neil explained that most of the stakeholders already provided comments, but wanted to offer time if anyone has anything to discuss. Shaun noted several points, including on page 9 that staff should be accountable for making decisions according to the law and best available science, not their beliefs.

John Rothlin asked how the agencies think things will work into the session. Don offered the following steps:

1. The agencies will meet with Representatives Fey and Short and review discussions
2. Agencies still think moving the sunset out makes the most sense
3. Legislators will assess whether or not to reintroduce the bill; if can't get it through a short session the agencies will have to decide on next steps

Justin wants to think about this for a bit. After November 20, they'll reach out to the group and let them know how this is playing out.

Summary/Next Steps

Neil reviewed the process to issue another draft report:

October 30: Comments due on current version

November 6: A final draft will be sent out

November 13: Comments will be due back on that draft. After that, the agencies will produce a version that will be used to brief legislators during legislative assembly days.

The meeting adjourned at approximately 2:00 pm.

Attendees:

In-person	
Neil Aaland, Facilitator	Justin Allegro, WDFW
Chad Brown, Ecology	Don Seeberger, Ecology

Christine Brewer, Avista	Micah Goo, Centralia City Light
Jory Oppenheimer, PSE	Dave Arbaugh, Chelan/Snohomish PUDs
Rose Feliciano, Seattle City Light	Brenda White, Snohomish PUD
Diana Carlen, Gordon Thomas Honeywell	Shaun Seaman, Chelan PUD
Lisa Rennie, TPU	
On phone:	
Dawn Presler, Snohomish PUD	Ross Hendrick, Grant PUD